

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
Civil Action No.: 5:17-cv- 00534-H

EPIC GAMES, INC.,

Plaintiffs,

v.

C.R.,

Defendant.

**SECOND DECLARATION OF
CHRISTOPHER M. THOMAS**

Pursuant to 28 U.S.C. § 1746, Christopher M. Thomas hereby declares and states as follows:

1. I am over 18 years of age, suffer from no known disability, and have personal knowledge of the facts set forth herein. All the statements in this declaration are true and correct.
2. I am counsel for Plaintiff Epic Games, Inc. ("Plaintiff" or "Epic") in the above-captioned case.
3. Epic is the creator, developer, and publisher of many video games, including Fortnite®, which, with over 125 million users, is Epic's most successful game to date. Indeed, August 2018 was Fortnite's biggest month yet, with 78.3 million active players.
4. Epic is opposed to any cheating or similar unauthorized behavior in any of its games.

5. Such conduct violates Epic's code of conduct for Fortnite, which specifically states:

Play fairly and within the rules of the game. Don't cheat, AFK, grief, exploit bugs or glitches . . .

6. A true and correct copy of the "Fortnite Battle Royale Code of Conduct" is attached hereto as Exhibit 1.

7. Attached hereto as Exhibit 2 is a redacted screen print of Defendant's "Sky Orbit" YouTube channel, which is publicly available at <www.youtube.com/channel/UCpMVHuY64dZV2Nxsj1-H0Xw/featured>. Exhibit 2 is a true and correct screen print from which Defendant's Twitter handle, which contains his name, and Instagram handle, which approximates his first name, have been redacted. The "ABOUT" page of this YouTube channel explains: "I Make Cheating Videos On H1Z1 Kotk R6S CSGO AND Fortnite Im Just here to show the part of the game the devs dont want to be shown. Enjoy My Content :)". The spelling and punctuation errors are from the original text.

8. Attached hereto as Exhibit 3 is a true and correct copy of a screen print taken of Defendant's now unavailable Sky Orbit V2 YouTube channel. Its URL on March 3, 2017, the date this screen print was taken was <www.youtube.com/channel/UC1uuo6p64Oggb9J_TlhLvtA/feed>.

9. Attached hereto as Exhibit 4 is a redacted screen print of Defendant's Twitter feed, which was taken on September 13, 2018, is available at <www.twitter.com/skyorbityt?lang=en>. Exhibit 4 is a true and correct screen print from which Defendant's first name has been redacted.

10. On October 29, 2017, less than one week after the Complaint was filed, Defendant posted a now-unavailable video entitled "Epic Games is suing me..." on his Sky Orbit channel. In this video, Defendant discusses the allegations made against him in the instant case and admits to cheating in Fortnite, to demonstrating the cheats in videos posted on his YouTube channel, and states that he is a minor.

11. Attached hereto as Exhibit 5 is a redacted copy of an article published in the *Raleigh News & Observer* on August 7, 2018 titled, "Mom's letter didn't work; Epic's 'Fortnite' lawsuit against 14-year-old can continue". Exhibit 5 is a true and correct screen print of the online version of the article from which Defendant's name has been redacted. The article states that on August 7, 2018 Defendant posted a video on his "Sky Orbit" YouTube channel that instructed viewers to go to another YouTube channel called "Sky Orbit Fortnite," which Defendant described as a backup channel to which he would be "uploading all of [his] 'Fortnite' cheating videos" because his original channel has two "copyright strikes" against it.

12. Attached hereto as Exhibit 6 is a true and correct copy of a screen print of Defendant's Sky Orbit Fortnite YouTube channel, which was live streamed on August 31, 2018 and was available at <www.youtube.com/channel/UCmzm8qNS_9mH_-WJoiyJM9g/featured>. The video has been removed in response to a DMCA takedown request submitted by Epic. The video featured Defendant using cheat software (referred to as an "aimbot") while streaming (i.e., live broadcasting) his gameplay.

13. Attached hereto as Exhibit 7 is a true and correct copy of an article published on August 10, 2018 entitled "5 Examples of How Cheating in Fortnite Gets You Infected" available at <www.bleepingcomputer.com/news/security/5-examples-of-how-cheating-in-fortnite-gets-you-infected/>.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 24th, 2018.



Christopher M. Thomas

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing **SECOND DECLARATION OF CHRISTOPHER M. THOMAS** was electronically filed this day with the Clerk of Court using the CM/ECF system and that a true and accurate copy of it was sent to all parties to this cause by depositing the original and/or copy hereof, postage pre-paid, in the United States mail, addressed as follows:

C.R.
c/o Lauren Rogers
501 West Ave.
New Castle, DE 19720

and

C.R.
c/o Lauren Rogers
5 Vireo Circle
Newark, DE 19711

This the 24th day of September 2018.

/s/ Christopher M. Thomas
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